

additional spectrum for use by television broadcasters to air this free digital programming service during the DTV conversion cannot properly be regarded as a “giveaway” or “windfall” for the television broadcast industry, and thus does not warrant extraction of quid pro quo in the form of additional government-mandated programming obligations or other requirements. Rather, the second channels carved from the existing television spectrum are merely being loaned to broadcasters so they may simulcast analog and digital programming while viewers upgrade to digital television sets. Without this approach, stations would be forced to switch to digital transmission overnight, leaving millions of viewers with dark and silent television sets the next day.

Moreover, when the DTV transition is complete, the public will receive very substantial benefits in the form of free over-the-air services with greatly improved signal quality (e.g., HDTV) and expanded programming choices (through SDTV multiplexing). In other words, the transition to DTV, in and of itself, serves the public interest. Broadcasters, on the other hand, will be in the same position they were prior to the transition—they each will have one 6 MHz television channel.<sup>50</sup> Thus, broadcasters are merely being loaned second channels during the DTV transition—a loan of which the public is the primary beneficiary.

**B. During the “Loan” Period, Broadcasters Must Invest Billions for Transition to DTV—Without Any Guarantee of Recovering These Costs**

To provide enhanced and expanded services, broadcasters are being called upon to invest approximately \$6 million to \$8 million per station in the purchase and installation of digital

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<sup>50</sup> High definition or multicasting could be achieved on the 6 MHz of spectrum currently allocated to broadcasters.

equipment—not to mention increased programming costs.<sup>51</sup> Indeed, broadcasters nationwide are expected to spend \$17 billion to upgrade to digital studio and transmission facilities.<sup>52</sup> Belo alone will have invested a grand total of at least \$138 million in DTV expenditures by 2006. Significantly, the government is not helping broadcasters with the very costly digital transition—there are no federal subsidies or special tax benefits for these exorbitant DTV expenditures.

Moreover, the financial burdens of the transition will fall most heavily upon the small, independent television broadcast stations least able to afford them. These stations often are marginal in terms of financial strength and audience appeal, and are already struggling to make the very significant capital outlays necessary to implement DTV operations. Indeed, “DTV equipment could cost more than [a] small station is worth.”<sup>53</sup> Furthermore, with respect to any

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<sup>51</sup> See Doug Halonen, A ‘Why 2002?’ Problem: Small Stations Fear Missing Digital Deadline, Electronic Media, Mar. 8, 1999 (“[A]ll the equipment needed to make the digital switch could cost \$10 million [per station]. . . .”) (reporting remarks of Charles Sherman, Executive Vice President, NAB); see also Daniel Frankel, New Media Brings New Issues to NAPTE, Electronic Media, Jan. 26, 2000 (With respect to programming costs, “Paramount Pictures . . . has spent \$8 million converting ‘Cheers’ episodes to digital.”).

In addition, television broadcasters who have initiated DTV operations already are encountering a variety of implementation challenges—some expected, and some unanticipated. For example, receiver prices remain high, and sales of DTV sets and tuner boxes have lagged behind projections. Moreover, technical problems with today’s receivers remain unresolved—including some issues related to DTV-cable compatibility. Further, HDTV programming remains scarce, and requirements for cable carriage of DTV signals have not yet been determined.

<sup>52</sup> Joint Letter from NAB, MSTV, and ALTV to William E. Kennard, Chairman, FCC, Feb. 22, 2000.

<sup>53</sup> Sinclair DTV Petition Is Key Issue at MSTV Conference, Public Broadcasting Report, Nov. 19, 1999 (reporting remarks of Charles Sherman, Executive Vice President, NAB); see also David Hatch, PBS’s Small Stations Hit Hard: Donor List Fallout Means Less Money To Those Who Need It Most, Electronic Media, Nov. 22, 1999 (reporting remarks of Joseph Widoff, Executive Vice President/Chief Operating Officer, WETA-TV, Washington, DC) (In addition to  
(Continued...)

additional expanded programming obligations that the government may be contemplating, in many cases, it is likely that a small, independent station's limited budget for such programming would simply be stretched to cover a larger number of hours, thereby further compromising the ability of these operators to invest in quality programming.<sup>54</sup> The public would not benefit in any meaningful way from forcing small, independent stations to significantly expand the time they devote to public service programming.

While the shift to DTV will certainly increase a television station's operating expenses, it is far less certain that it will increase the station's viewership or advertising revenues.<sup>55</sup> In fact, to ensure that broadcasters' television markets remain the same, the FCC's table of DTV channel allotments specifies facilities that will create nearly identical "footprints" to those that television stations now have with their analog stations. Accordingly, since it cannot be assumed at this point that the DTV transition will produce any concrete financial gain for television broadcasters, the temporary allotment of a second channel for the implementation of digital service fails to provide a justification for the imposition of new public interest obligations.

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(...Continued)

PBS stations, "many small commercial TV stations are already facing problems paying for their DTV transitions."); Russell Shaw, Maine Town Has Towering Problem, Electronic Media, June 7, 1999 ("[DTV] [t]owers costing about \$1 million in structure costs . . . , not even counting the antennas, labor, components, power and support facilities, can break a small station.").

<sup>54</sup> Many of these unaffiliated stations currently provide alternative programming—such as home shopping, informational, or religious programs—that the larger network stations do not offer. Thus, these stations already serve the public interest in their own way.

<sup>55</sup> Under existing law, television broadcasters are required to pay substantial fees to the FCC for the use of spectrum for "ancillary and supplementary" services. 47 C.F.R. § 73.624(g). Thus, as discussed below, a broadcaster's decision to offer such services should not trigger any additional public interest obligations. See *infra* Section V.A.

**V. RESPONSE TO SPECIFIC NOI “AREAS OF INQUIRY”:  
BROADCASTERS CAN BEST SERVE THE PUBLIC INTEREST BY  
CONTINUING TO RESPECT THEIR PUBLIC INTEREST  
RESPONSIBILITIES AND SUPPORTING VOLUNTARY INDUSTRY  
INITIATIVES<sup>56</sup>**

As noted above, the NOI seeks comment in four general areas: (i) challenges unique to the digital era (i.e., “multicasting,” HDTV, “multiplexing”); (ii) responding to the community (i.e., disclosure obligations, disaster warnings, minimum public interest obligations); (iii) enhancing access to the media (i.e., disabilities, diversity); and (iv) enhancing political discourse.<sup>57</sup> This section provides Belo’s response to the four “areas of inquiry,” as well as a proposal for expanded educational programming in the digital age. In general, the Company believes that broadcasters can best serve the public interest during and after the digital transition by continuing to respect their fundamental public interest responsibilities and supporting voluntary industry initiatives, and not through compelled adherence to government-dictated programming obligations.<sup>58</sup>

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<sup>56</sup> Belo’s position on the “areas of inquiry” addressed in this Section reflects and is based in large part upon the ideas expressed by Robert W. Decherd before the Advisory Committee. See generally Advisory Committee Report at 77-83 (Separate Statement of Robert W. Decherd et al.).

<sup>57</sup> See NOI.

<sup>58</sup> Further, as FCC Commissioner Harold Furchtgott-Roth has remarked, “[V]oluntary standards [that are the result of coercive behavior by the government] are neither a product of free will, nor are they merely exemplary. In other words, they are not voluntary and they are not standards. . . . [W]hen coupled with broad agency discretion in other matters concerning the regulated parties, [such] standards provide a dangerous mechanism for the evasion of statutory limits on [agency] authority . . . [which] is a threat to the rule of law and to the principle of limited government, both of which are essential to a free society. Worse, the use of these standards may involve constitutional violations.” FCC Commissioner Harold Furchtgott-Roth, Remarks Before the Media Institute (Nov. 17, 1998).

(Continued...)

**A. Challenges Unique to the Digital Era:  
It Is Imprudent to Contemplate the Imposition of Additional Public  
Interest Obligations on Television Broadcasters at This Early Stage in  
the Digital Era**

The Commission notes in the NOI that “broadcasters, as well as all television licensees upon conversion to DTV, have the flexibility either to ‘multicast,’ to provide HDTV, or to ‘multiplex’ DTV programming and [other services] at the same time[,]” and states that “[the FCC is] especially interested in . . . whether and how existing public interest obligations should translate to the digital medium.”<sup>59</sup> The NOI references the report of the Advisory Committee (“Advisory Committee Report”), which recommends that, after a two-year moratorium for experimentation, Congress or the FCC should require broadcasters who realize a substantial increase in revenue from multiplexing to either pay fees, make “in-kind contributions” (e.g., dedicate one of the channels to public interest purposes, or provide free time to political parties), or lease one of the channels at below market rates to an unaffiliated local programmer who has no financial or other interest in a broadcast station.<sup>60</sup> With this “menu of options” in place, statutory or other public interest obligations would attach only to the primary channel.<sup>61</sup> Belo supports a moratorium to allow broadcasters to explore the many possibilities offered by DTV, but believes it is imprudent at this early stage in the digital era to contemplate the imposition of fees or the extraction of specific public interest concessions from broadcasters.

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(...Continued)

<sup>59</sup> NOI at ¶ 10.

<sup>60</sup> See id. at ¶ 11 (referencing Advisory Committee Report at 55).

<sup>61</sup> See Advisory Committee Report at 55.

Indeed, because it is impossible to determine precisely the manner in which the transition to digital broadcasting will unfold, television broadcasters must have the flexibility to experiment with HDTV, multiplexed SDTV, and other variations of digital transmission and to develop innovative programming and other services to take full advantage of the enormous potential of digital technology.<sup>62</sup> As the NOI notes, “the courts have acknowledged, and the transition to DTV reinforces [that] the public interest standard is a ‘supple instrument’ designed to be flexible enough to accommodate the ‘dynamic aspects of [broadcast] transmission[.]’”<sup>63</sup>

However, any additional regulation regarding the content of television programming will necessarily involve elements of inflexibility and standardization. As the Advisory Committee stated, “[t]raditional regulation tends to be inflexible and can generate counterproductive incentives for broadcasters.”<sup>64</sup> Accordingly—whether broadcasters choose to provide one HDTV channel or to transmit multiple DTV channels—Congress and the FCC should avoid the imposition of any additional detailed and onerous regulatory requirements which may stifle experimentation and slow the implementation of digital technology.

Thus, Belo believes that existing public interest obligations should not be increased for broadcasters who elect to use their DTV allotments to provide a single channel of HDTV service.

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<sup>62</sup> Television broadcasters already must adhere to rigid public interest obligations to which their multichannel video competitors—e.g., cable television, DBS, wireless cable services—are not subject. Thus, while these competing information providers have the flexibility to experiment with programming options and quickly transition to accommodate the ever-changing market conditions, broadcasters lack similar flexibility to experiment and develop suitable programming and other digital services.

<sup>63</sup> NOI at ¶ 8 (quoting FCC v. Pottsville Broadcasting Co., 309 U.S. 134, 138 (1940)).

<sup>64</sup> See Advisory Committee Report at 44.

These broadcasters will be providing a one-for-one replacement of existing NTSC service, which carries with it significant trusteeship obligations already tailored to that service. Similarly, because channels devoted to ancillary and supplementary services will be subject to fees under existing law,<sup>65</sup> a broadcaster's decision to offer such services in addition to a single channel of DTV programming should not give rise to additional public interest obligations.

Furthermore, while Belo believes that those television broadcasters who choose to transmit more than three channels of digital programming may reasonably be expected to devote some additional time to public interest programming,<sup>66</sup> the Company believes that broadcasters should be given the flexibility to determine the appropriate level and scheduling of such additional public interest programming and to decide whether that programming will be aired on one or more of their digital video channels. Thus, the imposition of fees or any sort of specific quantitative guidelines for additional public interest programming are inappropriate and are likely to be counterproductive, as they would discourage multiplexing and the provision of innovative new program offerings.

It would be imprudent for the FCC (or any government body) to contemplate mandating additional public interest programming obligations at this early stage in the digital transition.<sup>67</sup>

Such obligations can only be based upon a speculative vision of the future shape of the digital

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<sup>65</sup> See supra note 55.

<sup>66</sup> See Advisory Committee Report at 55.

<sup>67</sup> Indeed, "it seems premature to attempt to fix public interest obligations to a service that has yet to blossom. The wiser course would have been to initiate this inquiry at a time when we understand more about the proposed or likely applications of digital television so our proposal would bear some plausible nexus to the service itself, rather than its potential." NOI (Concurring Statement of Commissioner Michael K. Powell, at 1).

marketplace and the role of television broadcasters therein. If the government allows the digital marketplace to evolve naturally (as shaped by the needs and interests of viewers), it will then be able to make a more educated judgment in the future as to whether additional regulation is necessary. If it is later determined that a relatively more mature DTV industry has failed to devote adequate attention to vital public needs (which Belo believes will not be the case), the FCC will have ample opportunity to take appropriate constitutionally-tailored remedial action.

## **B. Responding to the Community**

Two of the fundamental public interest obligations of television broadcasters are “to air programming responsive to the needs and interests of its community of license” and “to air emergency information.”<sup>68</sup> The NOI seeks comment on “ways [the Commission can] help [broadcasters] serve their communities better and more fully . . . as broadcasters move forward with their transition to digital technology.”<sup>69</sup>

### **1. Broadcasters should be encouraged to disseminate more broadly information on their efforts to identify and address local concerns in their public interest programming**

To assist individual communities in assessing and understanding the public interest programming efforts of their local television stations, Belo believes that television broadcasters should be encouraged to disseminate more widely information on their efforts to identify and address local concerns in their public interest programming offerings.<sup>70</sup> For example, the

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<sup>68</sup> Id. at ¶ 14.

<sup>69</sup> Id.

<sup>70</sup> See id. at ¶ 15 (referencing Advisory Committee Report at 45-46).



industry could encourage the distribution to area newspapers and local program guides of more extensive information on public affairs, educational, and local programming, as well as other public interest offerings, including programming that meets the needs of under-served communities.<sup>71</sup> Such enhanced disclosures could permit viewers to more readily identify and evaluate the efforts their local television broadcasters are making to address viewers' interests.<sup>72</sup>

Similarly, greater use can be made of web sites and other information distribution vehicles to increase awareness of public interest programming and to promote continuing dialogue between broadcasters and their communities.<sup>73</sup> At this juncture, however, Belo does not believe that it is necessary or appropriate for the FCC to impose specific additional record-keeping or reporting requirements on television broadcasters.<sup>74</sup>

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<sup>71</sup> See id. (referencing Advisory Committee Report at 46).

<sup>72</sup> See id.

<sup>73</sup> See id.

<sup>74</sup> As discussed above, broadcasters have every incentive to take appropriate steps to ensure that they identify and satisfy the needs, interests, and tastes of their local audiences now and in the future. See supra Section III.C. Indeed, the Commission recognized these incentives over fifteen years ago when it eliminated the FCC's formal ascertainment requirements. See Ascertainment Report and Order, 98 FCC 2d at 1098-99 ("[P]resent market forces provide adequate incentives for licensees to remain familiar with their communities. Moreover, future market forces, resulting from increased competition, will continue to require licensees to be aware of the needs of their communities. Given this reality, we believe that . . . the Commission should eliminate [ascertainment requirements]."); see also id. at 1100-01 ("[I]t is in the economic best interest of the licensee to stay informed about the needs and interests of its community. . . . [Accordingly,] we believe that ascertainment requirements can now be abandoned. . . .").

**2. Broadcasters should be encouraged to use digital technology to transmit improved disaster warnings**

Broadcasters always have taken seriously their public interest responsibility to warn viewers about impending natural disasters and to keep viewers informed about disaster-related events.<sup>75</sup> For example, in 1998, Belo's KENS-TV, San Antonio, Texas, broadcast round-the-clock, commercial free, during the devastating flooding in Texas to ensure viewers access to emergency information and assistance. Similarly, the television broadcast industry played a vital role in providing warnings, information on safety precautions and the availability of emergency shelters, and support for relief programs relating to the catastrophic flooding in North Carolina and neighboring areas in late 1999 and the recent flooding in Southern California.

The NOI "seek[s] comment on the Advisory Committee Report's recommendation . . . that broadcasters should work with emergency communications specialists and [equipment] manufacturers to determine the most effective means to transmit disaster warning information . . . in a manner that would be minimally intrusive on bandwidth and not result in undue additional burdens or costs on broadcasters."<sup>76</sup> Belo joins in the Advisory Committee's exhortation to broadcasters in this regard. The Company also agrees with the Advisory Committee that the FCC or other regulatory authorities should coordinate with manufacturers of DTV receivers to

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<sup>75</sup> See Advisory Committee Report at 60.

<sup>76</sup> See NOI at ¶ 19, 18 (quoting Advisory Committee Report at 60-61); see also Vice President's Letter at 2.

ensure that new digital television sets and converters are fully capable of handling such emergency transmissions.<sup>77</sup>

**3. The imposition of a set of mandatory minimum public interest obligations is unnecessary and would be counterproductive**

The NOI asks whether a set of mandatory minimum public interest requirements for digital broadcasters should be developed, as suggested in the Advisory Committee Report.<sup>78</sup> As the NOI notes, however, “[m]any members of the Advisory Committee . . . strongly opposed Commission-imposed minimum public interest requirements as unnecessary, preferring to give television broadcasters maximum flexibility and discretion in meeting their public interest obligations.”<sup>79</sup> Belo strenuously opposes the imposition of such mandatory standards. Television broadcasters’ continued voluntary adherence to generally accepted, industry-wide principles in providing public interest programming to serve local communities will best serve the industry and the viewing public.

In this regard, the Company believes that most broadcasters would voluntarily commit themselves to the following public interest principles and objectives for the digital age:

- Renewed and systematic efforts by station licensees to identify the concerns and interests of their local communities.
- A continuing commitment to provide public interest programming responsive to those concerns and interests.
- Provision of programming (including educational programming) specifically addressed and intended to be responsive to the needs and interests of children.

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<sup>77</sup> See Advisory Committee Report at 61; see also Vice President’s Letter at 2.

<sup>78</sup> See NOI at ¶ 21 (referencing Advisory Committee Report at 47).

<sup>79</sup> Id. (referencing Advisory Committee Report at 48).

- Coverage of debates and other candidate forums.
- Voluntary provision by television stations of airtime for uninterrupted statements by candidates for public office, to encourage a meaningful dialogue with the electorate on the central issues of their campaigns.
- Airing of town meetings and similar open forums for discussion of local issues by area residents, officials, and community leaders.
- Continuing efforts (such as closed captioning and video description) to utilize available technology to make the benefits of broadcast television more widely available to individuals with disabilities.

Belo does not believe, however, that it is appropriate for the Commission—or any governmental body—to mandate a set of minimum public interest obligations to which television broadcasters must comply, to identify the industry group expected to develop such obligations or standards, or to provide models of what such standards might look like. Rather, the Company concurs with the Advisory Committee’s statement that development of any industry obligations or standards should be “without pressure, interference, or direct or indirect enforcement by the government. The public, the marketplace, and the court of public opinion can then judge their efficacy.”<sup>80</sup> Any suggestion by the government that a new “code” is expected, that it should conform to some “model,” or that the FCC might step in if the industry does not produce such a document, is inconsistent with the concept of truly voluntary self-regulation.

### **C. Enhancing Access to the Media**

The FCC notes that “[O]ne of the Commission’s long-standing goals in the area of broadcast regulation is to enhance the access to the media by all people, including people of all

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<sup>80</sup> See Advisory Committee Report at 47.

racess, ethnicities, and gender, and, most recently, disabled persons.”<sup>81</sup> Thus, the NOI “seek[s] comment on the ways broadcasters can use [digital] technology to provide greater access to the media.”<sup>82</sup>

**1. Broadcasters should be encouraged, on a voluntary basis, to explore ways to provide greater access to the media to persons with disabilities**

The NOI states that “the Advisory Committee Report recommends that digital TV broadcasters ‘take full advantage’ of new digital technologies to provide ‘maximum choice and quality for Americans with disabilities, where doing so would not impose an undue burden on the broadcasters.”<sup>83</sup> Belo endorses the recommendation of the Advisory Committee that broadcasters be encouraged—on a voluntary basis—to explore ways to provide enhanced access to persons with disabilities, including expanded closed-captioning and video description where feasible, as well as creative uses of data streaming, in ways that will not create an undue burden on broadcasters.<sup>84</sup> The NOI further notes that the Advisory Committee “recommends that the FCC and other regulatory authorities work with set manufacturers to ensure [compatibility and maximum utilization of available technology] for disability access.”<sup>85</sup> While Belo concurs with this suggestion, the Company does not believe that broadcasters should be subject to specific

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<sup>81</sup> NOI at ¶ 23.

<sup>82</sup> Id.

<sup>83</sup> Id. at ¶ 25 (quoting Advisory Committee Report at 61).

<sup>84</sup> See Advisory Committee Report at 61-62; see also Vice President’s Letter at 2-3.

<sup>85</sup> NOI at ¶ 25 (referencing Advisory Committee Report at 62).

additional requirements beyond those already enumerated for the television industry in general, merely by virtue of the initiation of DTV operations.

**2. Broadcasters should be encouraged to consider voluntary industry initiatives to increase opportunities for participation in the media by minorities, women, and small businesses**

The NOI notes that “[d]iversity of viewpoint, ownership, and employment ha[s] long been and continues to be a fundamental goal in broadcasting.”<sup>86</sup> In this regard, the Commission acknowledges that “[b]roadcasters have voluntarily pursued a number of initiatives to foster diversity.”<sup>87</sup> Belo shares this commitment to diversity and to equal opportunities for all Americans to participate in and enjoy the benefits of the nation’s television broadcasting system, and thus strongly endorses voluntary industry initiatives to increase opportunities for and participation by minorities, women, and small businesses.

Indeed, the Company maintains a vigorous equal employment opportunity program, and is privileged to count among its executives, station managers, and on-air personalities a substantial number of highly capable women and members of minority groups. Moreover, as the NOI recognizes, “recently, [b]roadcasters [, including Belo, have] created an investment fund with current initial cash commitment of \$175 million and ultimate purchasing power of possibly \$1 billion to spur [broadcast] ownership by minorities and women.”<sup>88</sup>

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<sup>86</sup> Id. at ¶ 29.

<sup>87</sup> Id. at ¶ 30.

<sup>88</sup> Id.

Belo believes that television broadcasters should be encouraged to consider similar voluntary industry initiatives in the future—and that they are willing to do so. In this manner, the broadcast industry can increase opportunities for and participation by minorities, women, and small business in the media.

**D. Enhancing Political Discourse:  
Broadcasters Should Be Encouraged to Consider, on a Voluntary  
Basis, a Broad Range of Programming and Other Options to Elevate  
Political Discourse**

The NOI generally “seek[s] comment on ways that candidate access to television might be improved” in the digital era.<sup>89</sup> It more specifically seeks comment on several proposals, including, in particular, the recommendation of the Advisory Committee “that television broadcasters provide five minutes each night . . . for ‘candidate-centered discourse’ thirty days before an election . . . [,] with maximum flexibility for broadcasters, allowing them to choose the candidates and races . . . that deserve more attention.”<sup>90</sup>

Belo recognizes the widespread concern regarding the increasingly important role of television spot advertising in political campaigns and of the accompanying issues, including negative campaigning and fundraising abuse. Therefore, the Company agrees with the Advisory Committee that broadcasters should be strongly encouraged to provide free airtime to candidates, on a voluntary basis, for more meaningful discussion of campaign issues and proposals (e.g.,

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<sup>89</sup> Id. at ¶ 34. The Commission emphasized that it is not proposing any new rules or policies in the NOI. Id. “Rather, [the FCC’s] goal . . . is to initiate a public debate on the question. . . . This debate will greatly assist the Commission and Congress in determining what, if any, further steps should be taken on these important issues.” Id.

<sup>90</sup> Id. at ¶ 37 (referencing Advisory Committee Report at 59).

personal appearances by candidates themselves to make statements of at least one minute duration).<sup>91</sup> As discussed above, Belo and a number of other television station licensees already provide free airtime, and even more broadcasters have expressed the intention to provide such airtime in the future.<sup>92</sup>

In addition to free airtime, the Company believes that television broadcast stations should be encouraged to consider a broad range of programming and other options to improve the quality of political discourse. This process should not be mandated by the federal government; rather, it can and should be a voluntary undertaking agreed to and promoted by the industry. Thus, the Commission should not attempt to articulate or endorse any particular plan for the use of airtime for political messages. Further, as the Advisory Committee notes, television is only one part of a campaign system filled with serious problems; broadcasters can and should be expected to do their fair share to contribute to solutions to those problems, but should not be asked to shoulder the burden alone.<sup>93</sup>

#### **E. Proposal for Expanded Educational Programming in the Digital Age**

Like all television broadcasters, public television stations have been allotted a second 6 MHz channel on which to begin DTV operations during the specified analog-to-digital transition period. Belo strongly supports the Advisory Committee's recommendation, noted in the NOI, that, in each market, a second transition channel be retained permanently to be used for

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<sup>91</sup> See Advisory Committee Report at 59.

<sup>92</sup> See supra Section III.B.2.

<sup>93</sup> See Advisory Committee Report at 56.



additional educational, instructional, and public interest programming by noncommercial television stations.<sup>94</sup> In fact, this proposal was presented by Belo's CEO, Robert W. Decherd, at the Fifth Meeting of the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters, held on April 14, 1998.<sup>95</sup>

The availability of a second public television channel would strengthen noncommercial broadcasting and provide new opportunities for public access to the airwaves. The second channel could be used as an outlet for independent program producers, local residents, and community organizations. Additional spectrum dedicated to public use also could create a permanent pipeline for political candidates to communicate with the electorate at the state, county, and community levels. The federal government, however, should avoid the temptation to micromanage the use of the second noncommercial channel, or to impose upon prospective licensees a bureaucratic determination of what constitutes "appropriate" programming.

Moreover, fees that the FCC will recover when commercial broadcasters provide pay services can be used as one source of funding for an ambitious public broadcasting strategy.<sup>96</sup> This funding could provide a steady stream of revenue for educational programming. Belo believes that the Corporation for Public Broadcasting ("CPB") should continue to act as the umbrella organization for allocating funds to local noncommercial stations. Indeed, the CPB is well-situated to guide a nationwide effort to deliver more educational programming. Reliance on the CPB to perform this function also would avoid the need for establishment of any new

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<sup>94</sup> See NOI at ¶ 32 (referencing Advisory Committee Report at 51).

<sup>95</sup> Summary of presentation available at <<http://www.benton.org/Policy/TV/meeting5.html>>.

<sup>96</sup> See supra note 55.

bureaucracy to administer the second-channel program. Additionally, as the Advisory Committee suggests, Congress may want to consider devoting a portion of the proceeds of the auctions of returned analog television channels to the support of additional noncommercial programming to serve local educational and informational needs.<sup>97</sup>

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<sup>97</sup> See Advisory Committee Report at 52.

## VI. CONCLUSION

For the reasons set forth above, Belo urges the Commission not to increase the public interest obligations of television broadcast licensees in the digital era simply because they will be using DTV technology to provide broadcast service to the public. Indeed, there is no identifiable need for further burdensome regulation of television program content; television broadcast stations have voluntarily provided outstanding local public interest programming and other services in the past and have even greater incentive to do so in the future. Moreover, the imposition of additional detailed and onerous public interest obligations may very well stifle experimentation and slow the transition to digital service—a counterproductive result for the Commission, the television broadcast industry, and, most importantly, the public.

Respectfully submitted,

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March 27, 2000

# **APPENDIX A**

## ABOUT THE STUDY

- ◆ The following tables are designed to show the amount of time devoted each week to the broadcast of non-entertainment programming by the full-service television stations named at the top of each chart, which are owned and operated by A. H. Belo Corporation and its subsidiaries. The tables also include corresponding combined totals for the ABC, CBS, NBC, and Fox affiliates in each of the Belo markets.<sup>1</sup>
- ◆ Program Categories:
  - Newscasts: network and local newscasts (not including the news update segments of other news/information programming).
  - News/Information: news "magazines," morning news programs, and prime time news programs, such as "Good Morning America" and "Dateline NBC." (Tabloids and talk shows, such as "Hard Copy," "Entertainment Tonight" and "Oprah" are not included.)
  - Public Affairs: programs that discuss politics, current events, and other topics of public interest, such as "Meet the Press" and "Capital Conversation."
  - Instructional: how-to-programs such as "Your New House" and "Martha Stewart."
  - Children's/Educational: programs, as identified in program guides, designed to further "the educational and informational needs of children 16 years of age and under in any respect, including the child's intellectual/cognitive or social/emotional needs."
  - Religion: paid religious programs.
- ◆ Hours and Percentages:
  - For each day of the week, the tables show the amount, in hours, rounded to the nearest ¼ hour, of each category of programming broadcast during a twenty-four hour period by the Belo station named at the top of the chart. The figures are derived from a representative week and based upon published program guide listings.
  - Weekly Total: total number of hours of each category of programming broadcast during the week specified by the Belo station.
  - Weekly Total as Percentage of Total Programming: percentage of each broadcast week (168 hours) devoted to each category of programming.
  - Weekly Total for All Network Affiliates: total hours of each category of programming broadcast during the week for all four network affiliates (ABC, NBC, CBS and Fox) in the market. The Phoenix market also includes Belo's Independent station KTVB.
  - Weekly Total for All Network Affiliates as Percentage of Total Programming: percentage of each broadcast week of all four network affiliates (672 hours) devoted to each category of programming. The Phoenix market also includes Belo's Independent station KTVB (840 hours).
  - Discounted for Commercials: based upon data from a representative Belo station (KHOU-TV), the average amount of commercial matter in each hour of non-entertainment programming is 14.4 minutes, or 24% of each hour. This average figure is applied to all categories of programming, including children's/educational programming, although Belo stations comply with FCC standards for permissible commercial matter in children's programming. The numbers to the right of the "slash" marks have been discounted by that percentage to subtract commercial matter from the totals.<sup>2</sup>

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<sup>1</sup> The numbers in the tables include network, syndicated, and locally-produced programming.

<sup>2</sup> Religious programming generally does not contain commercials, and consequently, the totals have not been discounted.

**KHOU-TV, Houston, TX**

Channel 11, CBS

*News, Public Affairs, and Other Non-Entertainment Programming  
(in hours) for the week beginning January 16, 2000*

**Houston Network  
Affiliates**

(ABC, CBS, NBC, FOX)

	SUN.	MON.	TUES.	WEDS.	THURS.	FRI.	SAT.	WEEKLY TOTAL / DISCOUNTED FOR COMMERCIALS	WEEKLY TOTAL AS PERCENTAGE OF TOTAL PROGRAMMING / DISCOUNTED FOR COMMERCIALS	WEEKLY TOTAL FOR ALL NETWORK AFFILIATES / DISCOUNTED FOR COMMERCIALS	WEEKLY TOTAL FOR ALL NETWORK AFFILIATES AS PERCENTAGE OF TOTAL PROGRAMMING / DISCOUNTED FOR COMMERCIALS
NEWSCASTS	2.75	6.5	7.75	7.75	7.75	7.75	4	44.25 / 33.63	26.3% / 20.0%	146 / 110.96	21.8% / 16.6%
NEWS/INFORMATION (e.g., news "magazines," morning news programs)	2.5	1	2	1	2	1	2	11.5 / 8.74	6.8% / 5.2%	54 / 41.04	8.1% / 6.1%
PUBLIC AFFAIRS	1.5	-	-	-	-	-	1	2.5 / 1.9	1.5% / 1.1%	6 / 4.56	0.9% / 0.7%
INSTRUCTIONAL (e.g., how-to programs)	-	1	1	1	1	1	.5	5.5 / 4.18	3.3% / 2.5%	7.5 / 5.7	1.1% / 0.8%
CHILDREN'S/ EDUCATIONAL	3	-	-	-	-	-	1	4 / 3.04	2.4% / 1.8%	14.5 / 11.02	2.2% / 1.6%
RELIGION	.5	.5	-	-	-	-	-	1 / 1	0.6% / 0.6%	4.5 / 4.5	0.7% / 0.7%
TOTAL NON- ENTERTAINMENT PROGRAMMING	10.25	9	10.75	9.75	10.75	9.75	8.5	68.75 / 52.25	40.9% / 31.1%	232.5 / 176.7	34.7% / 26.4%

**KING-TV, Seattle-Tacoma, WA**

Channel 5, NBC

*News, Public Affairs, and Other Non-Entertainment Programming  
(in hours) for the week beginning January 16, 2000*

**Seattle-Tacoma  
Network Affiliates**

(ABC, CBS, NBC, FOX)

	SUN.	MON.	TUES.	WEDS.	THURS.	FRI.	SAT.	WEEKLY TOTAL / DISCOUNTED FOR COMMERCIALS	WEEKLY TOTAL AS PERCENTAGE OF TOTAL PROGRAMMING / DISCOUNTED FOR COMMERCIALS	WEEKLY TOTAL FOR ALL NETWORK AFFILIATES / DISCOUNTED FOR COMMERCIALS	WEEKLY TOTAL FOR ALL NETWORK AFFILIATES AS PERCENTAGE OF TOTAL • PROGRAMMING / DISCOUNTED FOR COMMERCIALS
NEWSCASTS	5	5.5	5.5	5.5	5.5	5.5	4.5	37 / 28.12	22.0% / 16.7%	137 / 104.12	20.1% / 15.5%
NEWS/INFORMATION (e.g., news "magazines," morning news programs)	2	5.5	4.5	3.5	3.5	4.5	.5	24 / 18.24	14.3% / 10.9%	66.5 / 50.54	9.9% / 7.5%
PUBLIC AFFAIRS	1	1	-	-	-	-	-	2 / 1.52	1.2% / 0.9%	3.5 / 2.66	0.5% / 0.4%
INSTRUCTIONAL (e.g., how-to programs)	1.5	1	1	1	1	1	-	6.5 / 4.94	3.8% / 3.0%	8.5 / 6.46	1.3% / 1.0%
CHILDREN'S/ EDUCATIONAL	1	-	-	-	-	-	2.5	3.5 / 2.66	2.1% / 1.5%	14 / 10.64	2.1% / 1.6%
RELIGION	-	-	-	-	-	-	-	-	-	1.5 / 1.5	0.2% / 0.2%
TOTAL NON- ENTERTAINMENT PROGRAMMING	10.5	13	11	10	10	11	7.5	73 / 55.48	43.5% / 33.2%	231 / 175.56	34.5% / 26.2%

**KTVB-TV, Boise, ID**

Channel 7, NBC

*News, Public Affairs, and Other Non-Entertainment Programming  
(in hours) for the week beginning January 16, 2000*

**Boise Network  
Affiliates**

(ABC, CBS, NBC, FOX)

	SUN.	MON.	TUES.	WEDS.	THURS.	FRI.	SAT.	WEEKLY TOTAL / DISCOUNTED FOR COMMERCIALS	WEEKLY TOTAL AS PERCENTAGE OF TOTAL PROGRAMMING / DISCOUNTED FOR COMMERCIALS	WEEKLY TOTAL FOR ALL NETWORK AFFILIATES / DISCOUNTED FOR COMMERCIALS	WEEKLY TOTAL FOR ALL NETWORK AFFILIATES AS PERCENTAGE OF TOTAL PROGRAMMING / DISCOUNTED FOR COMMERCIALS
NEWSCASTS	7	9	6	6	6	6	4.5	44.5 / 33.82	26.5% / 20.1%	115.75 / 87.97	17.2% / 13.1%
NEWS/INFORMATION (e.g., news "magazines," morning news programs)	3.5	6	4	4	4	4	2	27.5 / 20.9	16.4% / 12.4%	67 / 50.92	10% / 7.6%
PUBLIC AFFAIRS	.5	1	-	-	-	-	-	1.5 / 1.14	0.9% / 0.7%	8.5 / 6.46	1.3% / 1.0%
INSTRUCTIONAL (e.g., how-to programs)	-	-	-	-	-	-	1	1 / .76	0.6% / 0.5%	9 / 6.84	1.3% / 1.0%
CHILDREN'S/ EDUCATIONAL	2	-	-	-	-	-	2.5	4.5 / 3.42	2.7% / 2.0%	13.5 / 10.26	2.0% / 1.5%
RELIGION	-	-	-	-	-	-	-	-	-	2 / 2	0.3% / 0.3%
TOTAL NON- ENTERTAINMENT PROGRAMMING	13	16	10	10	10	10	10	79 / 60.04	47.0% / 35.7%	215.75 / 163.97	32.2% / 24.5%



**KTVK-TV, Phoenix, AZ**

Channel 3, Independent

*News, Public Affairs, and Other Non-Entertainment Programming  
(in hours) for the week beginning January 16, 2000*

**Phoenix Network  
Affiliates**

(ABC, CBS, NBC, FOX,  
Independent)

	SUN.	MON.	TUES.	WEDS.	THURS.	FRI.	SAT.	WEEKLY TOTAL / DISCOUNTED FOR COMMERCIALS	WEEKLY TOTAL AS PERCENTAGE OF TOTAL PROGRAMMING / DISCOUNTED FOR COMMERCIALS	WEEKLY TOTAL FOR ALL NETWORK AFFILIATES / DISCOUNTED FOR COMMERCIALS	WEEKLY TOTAL FOR ALL NETWORK AFFILIATES AS PERCENTAGE OF TOTAL PROGRAMMING / DISCOUNTED FOR COMMERCIALS
NEWSCASTS	1	6	6	6	6	6	1	32 / 24.32	19.0% / 14.5%	155 / 117.80	18.5% / 14.0%
NEWS/INFORMATION (e.g., news "magazines," morning news programs)	2	3	3	3	3	3	3	20 / 15.20	11.9% / 9.0%	92.5 / 70.3	11.0% / 8.4%
PUBLIC AFFAIRS	.5	-	-	-	-	-	-	.5 / .38	0.3% / 0.2%	4 / 3.04	0.5% / 0.4%
INSTRUCTIONAL (e.g., how-to programs)	2.5	-	-	-	-	-	2.5	5 / 3.80	3.0% / 2.3%	20 / 15.20	2.4% / 1.8%
CHILDREN'S/ EDUCATIONAL	1.5	-	-	-	-	-	2	3.5 / 2.66	2.1% / 1.6%	17 / 12.92	2.0% / 1.5%
RELIGION	-	-	-	-	-	-	-	-	-	0.5 / 0.5	0.1% / 0.1%
TOTAL NON- ENTERTAINMENT PROGRAMMING	7.5	9	9	9	9	9	8.5	61 / 46.36	36.3% / 27.6%	289 / 219.64	34.4% / 26.1%

**WFAA-TV, Dallas-Fort Worth, TX**

Channel 8, ABC

*News, Public Affairs, and Other Non-Entertainment Programming  
(in hours) for the week beginning January 16, 2000*

**Dallas-Fort Worth  
Network Affiliates**

(ABC, CBS, NBC, FOX)

	SUN.	MON.	TUES.	WEDS.	THURS.	FRI.	SAT.	WEEKLY TOTAL / DISCOUNTED FOR COMMERCIALS	WEEKLY TOTAL AS PERCENTAGE OF TOTAL PROGRAMMING / DISCOUNTED FOR COMMERCIALS	WEEKLY TOTAL FOR ALL NETWORK AFFILIATES / DISCOUNTED FOR COMMERCIALS	WEEKLY TOTAL FOR ALL NETWORK AFFILIATES AS PERCENTAGE OF TOTAL PROGRAMMING / DISCOUNTED FOR COMMERCIALS
NEWSCASTS	4	8	7	7	7	7	4.5	44.5 / 33.82	26.5% / 20.1%	166.5 / 126.54	24.8% / 18.8%
NEWS/INFORMATION (e.g., news "magazines," morning news programs)	.5	4.5	4.5	5.5	5.5	5.5	-	26 / 19.76	15.5% / 11.8%	77 / 58.52	11.5% / 8.7%
PUBLIC AFFAIRS	4.5	-	-	-	-	-	.5	5 / 3.8	3.0% / 2.3%	7.5 / 5.7	1.1% / 0.8%
INSTRUCTIONAL (e.g., how-to programs)	-	-	-	-	-	-	-	-	-	7.5 / 5.7	1.1% / 0.8%
CHILDREN'S/ EDUCATIONAL	-	-	-	-	-	-	5	5 / 3.8	3.0% / 2.3%	14.5 / 11.02	2.2% / 1.6%
RELIGION	2	-	-	-	-	-	-	2 / 2	1.2% / 1.2%	2 / 2	0.3% / 0.3%
TOTAL NON- ENTERTAINMENT PROGRAMMING	11	12.5	11.5	12.5	12.5	12.5	10	82.5 / 62.7	49.1% / 37.3%	275 / 209	41.0% / 31.2%

**WVEC-TV, Hampton-Norfolk, VA**

Channel 13, ABC

*News, Public Affairs, and Other Non-Entertainment Programming  
(in hours) for the week beginning January 15, 2000***Hampton-Norfolk  
Network Affiliates**

(ABC, CBS, NBC, FOX)

	SAT.	SUN.	MON.	TUES.	WEDS.	THURS.	FRI.	WEEKLY TOTAL / DISCOUNTED FOR COMMERCIALS	WEEKLY TOTAL AS PERCENTAGE OF TOTAL PROGRAMMING / DISCOUNTED FOR COMMERCIALS	WEEKLY TOTAL FOR ALL NETWORK AFFILIATES / DISCOUNTED FOR COMMERCIALS	WEEKLY TOTAL FOR ALL NETWORK AFFILIATES AS PERCENTAGE OF TOTAL PROGRAMMING / DISCOUNTED FOR COMMERCIALS
NEWSCASTS	1.5	1.5	6.5	6.5	7.5	7.5	7.5	38.5 / 29.26	22.9% / 17.4%	121 / 91.96	18.0% / 13.7%
NEWS/INFORMATION (e.g., news "magazines," morning news programs)	.5	1	3.5	3.5	4.5	4.5	4.5	22 / 16.72	13.1% / 10.0%	53 / 40.28	7.9% / 6.0%
PUBLIC AFFAIRS	.5	3.5	-	-	-	-	-	4 / 3.04	2.4% / 1.8%	6 / 4.56	0.9% / 0.7%
INSTRUCTIONAL (e.g., how-to programs)	1.5	.5	-	-	-	-	-	2 / 1.52	1.2% / 0.9%	3.5 / 2.66	0.5% / 0.4%
CHILDREN'S/ EDUCATIONAL	4.5	-	.5	-	-	-	-	5 / 3.8	3.0% / 2.3%	16.5 / 12.54	2.5% / 1.9%
RELIGION	-	3.5	-	-	-	-	-	3.5 / 3.5	2.1% / 2.1%	19 / 19	2.8% / 2.8%
TOTAL NON- ENTERTAINMENT PROGRAMMING	8.5	10	10.5	10	12	12	12	75 / 57	44.6% / 33.9%	219 / 166.44	32.7% / 24.8%